

Bill no.:	HR 4591
Amendment no.:	2
Date offered:	7/12/06
Disposition:	Not Agreed to by 19 years and 26 days

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4591
OFFERED BY MS. SOLIS OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “POPs, LRTAP POPs, and PIC Implementation Act of
4 2006”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Implementation of international agreements.
- Sec. 3. Exports.
- Sec. 4. Prohibited acts.
- Sec. 5. Conforming amendments.

**7 SEC. 2. IMPLEMENTATION OF INTERNATIONAL AGREE-
8 MENTS.**

9 The Toxic Substances Control Act (15 U.S.C. 2601
10 et seq.) is amended—

11 (1) in section 1, by adding at the end of the
12 table of contents the following:

“TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

- “Sec. 501. Definitions.
- “Sec. 502. Implementation of POPs Convention and LRTAP POPs Protocol.
- “Sec. 503. Notice and record of prohibitions, exemptions, disallowances, and other information.



"Sec. 504. International conventions and cooperation in international efforts.

"Sec. 505. Exports.

"Sec. 506. Rules of construction.

"Sec. 507. Applicability."

1 ; and

2 (2) by adding at the end the following:

3 **"TITLE V—IMPLEMENTATION OF**
4 **INTERNATIONAL AGREEMENTS**

5 **"SEC. 501. DEFINITIONS.**

6 "In this title:

7 "(1) CONFERENCE.—The term 'Conference'
8 means the Conference of the Parties established by
9 paragraph 1 of Article 19 of the POPs Convention.

10 "(2) CONFERENCE LISTING DECISION.—The
11 term 'Conference listing decision' means a decision
12 by the Conference to approve an amendment to list
13 a chemical substance or mixture in Annex A or B
14 to the POPs Convention.

15 "(3) DESIGNATED NATIONAL AUTHORITY.—The
16 term 'designated national authority' means the 1 or
17 more authorities that a government has designated
18 in a notification to the Secretariat of the PIC Con-
19 vention in accordance with Article 4 of the PIC Con-
20 vention.

21 "(4) EXECUTIVE BODY.—The term 'Executive
22 Body' means the Executive Body established by Ar-
23 ticle 10 of the LRTAP Convention.

1 “(5) EXECUTIVE BODY DECISION 1998/2.—The
2 term ‘Executive Body Decision 1998/2’ means the
3 decision of the Executive Body titled ‘Executive
4 Body Decision 1998/2 on Information to Be Sub-
5 mitted and the Procedure for Adding Substances to
6 Annexes I, II, or III to the Protocol on Persistent
7 Organic Pollutants’ including any amendments
8 thereto, as provided in Article 14 of the LRTAP
9 POPs Protocol.

10 “(6) HCH.—The term ‘HCH’ means
11 hexachlorocyclohexane, including lindane.

12 “(7) LRTAP CONVENTION.—The term
13 ‘LRTAP Convention’ means the Convention on
14 Long-Range Transboundary Air Pollution, done at
15 Geneva on November 13, 1979 (TIAS 10541).

16 “(8) LRTAP POPS CHEMICAL SUBSTANCE OR
17 MIXTURE.—The term ‘LRTAP POPs chemical sub-
18 stance or mixture’ means one of the following chem-
19 ical substances or mixtures:

20 “(A) Aldrin.

21 “(B) Chlordane.

22 “(C) Chlordecone.

23 “(D) Dichlorodiphenyltrichloroethane
24 (DDT).

25 “(E) Dieldrin.



1 “(F) Endrin.

2 “(G) HCH.

3 “(H) Heptachlor.

4 “(I) Hexachlorobenzene.

5 “(J) Hexabromobiphenyl.

6 “(K) Mirex.

7 “(L) Polychlorinated biphenyls (PCBs).

8 “(M) Toxaphene.

9 “(N) Any chemical substance or mixture
10 that is listed on Annex I or Annex II of the
11 LRTAP POPs Protocol.

12 “(9) LRTAP POPS LISTING DECISION.—The
13 term ‘LRTAP POPs listing decision’ means a deci-
14 sion by the parties to the LRTAP POPs Protocol to
15 approve an amendment to list a chemical substance
16 or mixture in Annex I or II to the LRTAP POPs
17 Protocol.

18 “(10) LRTAP POPS PROTOCOL.—The term
19 ‘LRTAP POPs Protocol’ means the Protocol on Per-
20 sistent Organic Pollutants to the LRTAP Conven-
21 tion, done at Aarhus on June 24, 1998, and any
22 subsequent amendment to which the United States
23 consents to be bound.

24 “(11) PCB.—The term ‘PCB’ means a poly-
25 chlorinated biphenyl.

1 “(12) PIC CONVENTION.—The term ‘PIC Con-
2 vention’ means the Rotterdam Convention on the
3 Prior Informed Consent Procedure for Certain Haz-
4 ardous Chemicals and Pesticides in International
5 Trade, done at Rotterdam on September 10, 1998,
6 and any subsequent amendment to which the United
7 States consents to be bound .

8 “(13) POPs CHEMICAL SUBSTANCE OR MIX-
9 TURE.—The term ‘POPs chemical substance or mix-
10 ture’ means—

11 “(A) aldrin;

12 “(B) chlordane;

13 “(C) dichlorodiphenyltrichloroethane
14 (DDT);

15 “(D) dieldrin;

16 “(E) endrin;

17 “(F) heptachlor;

18 “(G) hexachlorobenzene;

19 “(H) mirex;

20 “(I) PCBs;

21 “(J) toxaphene; and

22 “(K) any other chemical substance or mix-
23 ture that is listed in Annex A or B to the POPs
24 Convention.

1 “(14) POPs CONVENTION.—The term ‘POPs
2 Convention’ means the Stockholm Convention on
3 Persistent Organic Pollutants, done at Stockholm on
4 May 22, 2001, and any subsequent amendment to
5 which the United States consents to be bound.

6 “(15) POPs REVIEW COMMITTEE.—The term
7 ‘POPs Review Committee’ means the Persistent Or-
8 ganic Pollutants Review Committee established
9 under paragraph 6 of Article 19 of the POPs Con-
10 vention.

11 **“SEC. 502. IMPLEMENTATION OF POPs CONVENTION AND**
12 **LRTAP POPs PROTOCOL.**

13 “(a) PROHIBITION ON SPECIFIED POPs CHEMICAL
14 SUBSTANCES AND MIXTURES AND LRTAP POPs CHEM-
15 ICAL SUBSTANCES AND MIXTURES.—Subject to sub-
16 sections (c), (d), and (i) and the relevant provisions of the
17 POPs Convention and the LRTAP POPs Protocol, not-
18 withstanding any other provision of law, a person shall
19 not manufacture, process, distribute in commerce for ex-
20 port, use, or dispose of any of the following:

21 “(1) A POPs chemical substance or mixture
22 specified in any of subparagraphs (A) through (H)
23 and (J) of section 501(13).



1 “(2) A LRTAP POPs chemical substance or
2 mixture specified in any of subparagraphs (A)
3 through (K) and (M) of section 501(8).

4 “(b) PROHIBITION ON OTHER POPs CHEMICAL SUB-
5 STANCES AND MIXTURES AND LRTAP POPs CHEMICAL
6 SUBSTANCES AND MIXTURES.—Subject to subsections
7 (c), (d), and (i), notwithstanding any other provision of
8 law, a person shall not manufacture, process, distribute
9 in commerce for export, use, or dispose of a POPs chem-
10 ical substance or mixture described in section 501(13)(K),
11 or a LRTAP POPs chemical substance or mixture de-
12 scribed in 501(8)(N), in a manner that is inconsistent
13 with regulations promulgated under subsection (h).

14 “(c) EXEMPTIONS UNDER POPs CONVENTION.—

15 “(1) IN GENERAL.—The prohibitions specified
16 in subsection (b) shall not apply to any manufacture,
17 processing, distribution in commerce for export, use,
18 or disposal of a POPs chemical substance or mixture
19 that the Administrator (in consultation with the Sec-
20 retary of State) determines, through final regula-
21 tions promulgated under subsection (h)—

22 “(A) is consistent with—

23 “(i) a production or use specific ex-
24 emption applicable to the United States



1 under Annex A or B to the POPs Conven-
2 tion; or

3 “(ii) an acceptable purpose applicable
4 to the United States under Annex B to the
5 POPs Convention; and

6 “(B) would, as a result, not prevent the
7 United States from complying with the obliga-
8 tions of the United States under the POPs
9 Convention.

10 “(2) UNINTENTIONAL TRACE CONTAMI-
11 NANTS.—To the extent consistent with the POPs
12 Convention, the prohibitions specified in subsections
13 (a) and (b) shall not apply to any quantity of a
14 POPs chemical substance or mixture that occurs as
15 an unintentional trace contaminant in a product or
16 article.

17 “(3) RESEARCH.—To the extent consistent with
18 the POPs Convention, the prohibitions specified in
19 subsections (a) and (b) shall not apply to any quan-
20 tity of a POPs chemical substance or mixture that
21 is used for laboratory scale research or as a ref-
22 erence standard.

23 “(4) CONSTITUENT OF ARTICLE IN USE BE-
24 FORE PROHIBITION APPLIED.—To the extent con-
25 sistent with the POPs Convention, the prohibitions



1 specified in subsections (a) and (b) shall not apply
2 to any quantity of a POPs chemical substance or
3 mixture that occurs as a constituent of an article,
4 if—

5 “(A) the article is manufactured or in use
6 on or before the date of entry into force of the
7 obligation applicable to the POPs chemical sub-
8 stance or mixture; and

9 “(B) the United States has met any appli-
10 cable requirement of the POPs Convention to
11 notify the Secretariat of the POPs Convention
12 concerning the article.

13 “(5) CLOSED-SYSTEM SITE-LIMITED INTER-
14 MEDIATE.—

15 “(A) EXEMPTION.—

16 “(i) IN GENERAL.—Subject to clause
17 (ii), to the extent consistent with the POPs
18 Convention, the prohibitions specified in
19 subsections (a) and (b) shall not apply to
20 any quantity of a POPs chemical sub-
21 stance or mixture that is—

22 “(I) manufactured and used as a
23 closed-system site-limited inter-
24 mediate; and



1 “(II) chemically transformed in
2 the manufacture of other chemicals
3 that do not exhibit the characteristics
4 of persistent organic pollutants (tak-
5 ing into consideration the criteria in
6 paragraph 1 of Annex D of the POPs
7 Convention).

8 “(ii) CONDITIONS.—Clause (i) applies
9 if, before the commencement of the manu-
10 facture or use of the POPs chemical sub-
11 stance or mixture, and before the com-
12 mencement of each 10-year period
13 thereafter—

14 “(I) any person that desires to
15 invoke the exemption provides to the
16 Administrator information
17 concerning—

18 “(aa) the annual total quan-
19 tity of the POPs chemical sub-
20 stance or mixture anticipated to
21 be manufactured or used or a
22 reasonable estimate of the quan-
23 tity; and

24 “(bb) the nature of the
25 closed system site-limited proc-



1 ess, including the quantity of any
2 nontransformed and unintentional
3 trace contamination by the
4 POPs chemical substance or mixture
5 that remains in the final
6 product; and

7 “(II) notwithstanding any other
8 provision of law, the Administrator—

9 “(aa) determines, in consultation with the Secretary of
10 State, that the information provided under subclause (I) is complete and sufficient; and

11 “(bb) transmits the information to the Secretariat of the
12 POPs Convention.

13 “(B) TERMINATION OF EXEMPTION.—If,
14 at the termination of any 10-year exemption period under subparagraph (A), a particular
15 closed-system site-limited intermediate exemption is no longer authorized for the United
16 States under the POPs Convention, it shall be
17 unlawful for any person to continue to manufacture or use any such POPs chemical sub-



1 stance or mixture as a closed-system site-lim-
2 ited intermediate.

3 “(6) DISTRIBUTION IN COMMERCE FOR EXPORT
4 IF PRODUCTION OR USE SPECIFIC EXEMPTION OR
5 ACCEPTABLE PURPOSE IS IN EFFECT.—

6 “(A) IN GENERAL.—To the extent con-
7 sistent with the POPs Convention, the prohibi-
8 tions specified in subsections (a) and (b) shall
9 not apply to any distribution in commerce for
10 export of any POPs chemical substance or mix-
11 ture for which a production or use specific ex-
12 emption under Annex A to the POPs Conven-
13 tion applicable to the United States is in effect,
14 or for which a production or use specific exemp-
15 tion or acceptable purpose under Annex B to
16 the POPs Convention applicable to the United
17 States is in effect, unless the POPs chemical
18 substance or mixture does not comply with an
19 export condition described in—

20 “(i) subparagraph (B), as determined
21 by the Administrator in consultation with
22 the heads of other interested Federal agen-
23 cies; or

24 “(ii) subparagraph (C) or (D), as de-
25 termined by the Administrator in consulta-



1 tion with the heads of other interested
2 Federal agencies, the Secretary of State,
3 and the United States Trade Representa-
4 tive.

5 “(B) EXPORT FOR ENVIRONMENTALLY
6 SOUND DISPOSAL.—An export condition re-
7 ferred to in subparagraph (A) is that the POPs
8 chemical substance or mixture is exported for
9 the purpose of environmentally sound disposal
10 in accordance with paragraph 1(d) of Article 6
11 of the POPs Convention.

12 “(C) EXPORT TO PARTY WITH PERMISSION
13 TO USE.—An export condition referred to in
14 subparagraph (A) is that the POPs chemical
15 substance or mixture is exported to a party to
16 the POPs Convention that is permitted to use
17 the POPs chemical substance or mixture under
18 Annex A or B to the POPs Convention.

19 “(D) EXPORT TO NONPARTY THAT HAS
20 PROVIDED NONPARTY CERTIFICATION.—

21 “(i) IN GENERAL.—An export condi-
22 tion referred to in subparagraph (A) is
23 that the POPs chemical substance or mix-
24 ture is exported to an importing foreign
25 state that—



1 “(I) is not a party to the POPs
2 Convention with respect to the POPs
3 chemical substance or mixture; and

4 “(II) has provided an annual cer-
5 tification to the Administrator.

6 “(ii) COMMITMENTS BY IMPORTING
7 NONPARTY.—Consistent with the POPs
8 Convention, an annual nonparty certifi-
9 cation under clause (i) shall specify the in-
10 tended use of the POPs chemical substance
11 or mixture and state that, with respect to
12 the POPs chemical substance or mixture,
13 the importing nonparty is committed to—

14 “(I) protecting human health and
15 the environment by taking necessary
16 measures to minimize or prevent re-
17 leases;

18 “(II) complying with paragraph
19 1(d) of Article 6 of the POPs Conven-
20 tion; and

21 “(III) complying, to the extent
22 appropriate, with paragraph 2 of Part
23 II of Annex B to the POPs Conven-
24 tion.



1 “(iii) SUPPORTING DOCUMENTA-
2 TION.—Each nonparty certification shall
3 include any appropriate supporting docu-
4 mentation, such as legislation, regulatory
5 instruments, and administrative or policy
6 guidelines.

7 “(iv) SUBMISSION TO SECRETARIAT
8 OF POPs CONVENTION.—Not later than 60
9 days after the date of receipt of a complete
10 nonparty certification, the Administrator
11 shall submit a copy of the nonparty certifi-
12 cation to the Secretariat of the POPs Con-
13 vention.

14 “(7) EXPORT FOR ENVIRONMENTALLY SOUND
15 DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-
16 EMPTION IN EFFECT.—To the extent consistent with
17 the POPs Convention, the prohibitions specified in
18 subsections (a) and (b) shall not apply to any dis-
19 tribution in commerce for export for the purpose of
20 environmentally sound disposal, in accordance with
21 paragraph 1(d) of Article 6 of the POPs Convention,
22 of a POPs chemical substance or mixture listed in
23 Annex A to the POPs Convention for which no pro-
24 duction or use specific exemption is in effect for any
25 party to the POPs Convention.



1 “(8) IMPORTS FOR SPECIFIED PURPOSES.—To
2 the extent consistent with the POPs Convention, the
3 prohibitions specified in subsections (a) and (b) shall
4 not apply to a POPs chemical substance or mixture
5 that is imported for the purpose of environmentally
6 sound disposal in accordance with paragraph 1(d) of
7 Article 6 of the POPs Convention.

8 “(9) WASTE.—To the extent consistent with the
9 POPs Convention, the prohibitions specified in sub-
10 sections (a) and (b) shall not apply to any quantity
11 of a POPs chemical substance or mixture, including
12 any article that consists of, contains, or is contami-
13 nated with a POPs chemical substance or mixture,
14 that has become waste and that is managed in a
15 manner consistent with Article 6 of the POPs Con-
16 vention.

17 “(10) NO EFFECT ON OTHER PROHIBITIONS.—
18 Nothing in this subsection authorizes any manufac-
19 ture, processing, distribution in commerce for ex-
20 port, use, or disposal of a POPs chemical substance
21 or mixture that is prohibited under any other provi-
22 sion of law.

23 “(d) EXEMPTIONS UNDER LRTAP POPs PRO-
24 TOCOL.—



1 “(1) IN GENERAL.—To the extent consistent
2 with the LRTAP POPs Protocol, the prohibitions on
3 manufacture, processing, distribution in commerce
4 for export, or use specified in subsections (a) and
5 (b) shall not apply to—

6 “(A) any manufacture, processing, dis-
7 tribution in commerce for export, or use of a
8 LRTAP POPs chemical substance or mixture
9 that the Administrator determines (in consulta-
10 tion with the Secretary of State), through final
11 regulations promulgated in accordance with
12 subsection (h)—

13 “(i) is consistent with an allowed re-
14 stricted use or condition applicable to the
15 United States under Annex I or II to the
16 LRTAP POPs Protocol; and

17 “(ii) would, as a result, not prevent
18 the United States from complying with the
19 obligations of the United States under the
20 LRTAP POPs Protocol;

21 “(B) any quantity of a LRTAP POPs
22 chemical substance or mixture that is used for
23 laboratory scale research or as a reference
24 standard;



1 “(C) any quantity of a LRTAP POPs
2 chemical substance or mixture that occurs as a
3 contaminant in a product;

4 “(D) any quantity of a LRTAP POPs
5 chemical substance or mixture that is in an ar-
6 ticle manufactured or in use on or before—

7 “(i) the implementation date of any
8 applicable obligation of the LRTAP POPs
9 Protocol; or

10 “(ii) in the case of any LRTAP POPs
11 chemical substance or mixture added to
12 any applicable Annex after the implemen-
13 tation date of the applicable obligation of
14 the LRTAP POPs Protocol, the implemen-
15 tation date in the amendment to the
16 LRTAP POPs Protocol that makes the ad-
17 dition;

18 “(E) any quantity of a LRTAP POPs
19 chemical substance or mixture that occurs as a
20 site-limited chemical intermediate in the manu-
21 facture of 1 or more different substances and
22 that is subsequently chemically transformed;

23 “(F) the production or use of any quantity
24 of HCH that complies with the restrictions and



1 conditions specified for HCH in Annex II to the
2 LRTAP POPs Protocol;

3 “(G) any quantity of a LRTAP POPs
4 chemical substance or mixture that has become
5 waste and that is disposed of in an environ-
6 mentally sound manner in accordance with
7 paragraph 1(b) of Article 3 of the LRTAP
8 POPs Protocol;

9 “(H) any distribution in commerce for ex-
10 port of a LRTAP POPs chemical substance or
11 mixture if the distribution in commerce for ex-
12 port is conducted in an environmentally sound
13 manner; or

14 “(I) any import of a LRTAP POPs chem-
15 ical substance or mixture if the import is con-
16 ducted in an environmentally sound manner.

17 “(2) EXEMPTIONS BY ADMINISTRATOR.—The
18 Administrator, in consultation with the Secretary of
19 State, may grant an exemption from the prohibitions
20 applicable to LRTAP POPs chemical substances or
21 mixtures specified in subsection (a) or (b) that the
22 Administrator determines are consistent with the ex-
23 emptions authorized under paragraph 2 of Article 4
24 of the LRTAP POPs Protocol.

25 “(3) EXEMPTIONS BY PETITION.—



1 “(A) PETITIONS.—A person may petition
2 the Administrator for an exemption from a pro-
3 hibition applicable to LRTAP POPs chemical
4 substances or mixtures specified in subsection
5 (a) or (b) that is consistent with the exemptions
6 authorized under paragraph 2 of Article 4 of
7 the LRTAP POPs Protocol.

8 “(B) REQUIRED ELEMENTS OF PETI-
9 TIONS.—Any petition under subparagraph (A)
10 shall, at a minimum, contain—

11 “(i) information relating to each find-
12 ing, if any, that the Administrator is re-
13 quired to make under the LRTAP POPs
14 Protocol before granting the exemption;
15 and

16 “(ii) any additional information, if
17 any, that the Administrator is required to
18 provide to the Secretariat of the LRTAP
19 POPs Protocol concerning a granted ex-
20 emption.

21 “(C) GRANT OR DENIAL OF PETITION.—
22 The Administrator, in consultation with the
23 Secretary of State, shall—

24 “(i) if the petition is authorized for
25 the United States under, and is otherwise



1 consistent with, the LRTAP POPs Pro-
2 tocol, grant the petition with such condi-
3 tions or limitations as are necessary to
4 meet any requirement of the LRTAP
5 POPs Protocol or any other provision of
6 law; or

7 “(ii) deny the petition.

8 “(4) PROVISION OF INFORMATION TO SECRE-
9 TARIAT.—Notwithstanding any other provision of
10 law, if the Administrator grants an exemption under
11 this subsection, the Administrator, not later than 90
12 days after the date on which the exemption is grant-
13 ed, shall provide the Secretariat of the LRTAP
14 POPs Protocol with the information specified in
15 paragraph 3 of Article 4 of the LRTAP POPs Pro-
16 tocol.

17 “(5) DISALLOWANCE OF EXEMPTION BY LRTAP
18 POPS PROTOCOL.—

19 “(A) IN GENERAL.—If, after an exemption
20 has been granted under this subsection, the ex-
21 emption is no longer authorized by the United
22 States under the LRTAP POPs Protocol, it
23 shall be unlawful for any person to manufac-
24 ture, process, distribute in commerce for export,
25 or use a LRTAP POPs chemical substance or



1 mixture in the manner authorized by the ex-
2 emption.

3 “(B) PUBLICATION OF NOTICE IN FED-
4 ERAL REGISTER.—The Administrator shall pub-
5 lish in the Federal Register a notice announcing
6 the disallowance of any exemption under sub-
7 paragraph (A).

8 “(6) NO EFFECT ON OTHER PROHIBITIONS.—
9 Nothing in this subsection authorizes any manufac-
10 ture, processing, distribution in commerce for ex-
11 port, use, or disposal of a LRTAP POPs chemical
12 substance or mixture that is prohibited under any
13 other provision of law.

14 “(e) NOTICE AFTER DECISION THAT SCREENING
15 CRITERIA ARE MET UNDER POPs CONVENTION OR
16 AFTER RISK PROFILE SUBMITTED UNDER LRTAP POPs
17 PROTOCOL.—

18 “(1) APPLICABILITY.—This subsection applies
19 if—

20 “(A) the POPs Review Committee or Con-
21 ference decides—

22 “(i) under paragraph 4(a) of Article 8
23 of the POPs Convention, that a proposal
24 for listing a chemical substance or mixture
25 in Annex A, B, or C to the POPs Conven-



1 tion fulfills the screening criteria specified
2 in Annex D to the POPs Convention; or

3 “(ii) under paragraph 5 of Article 8
4 of the POPs Convention, that such a pro-
5 posal shall proceed; or

6 “(B) if a party to the LRTAP POPs Pro-
7 tocol submits to the Executive Body a risk pro-
8 file in support of a proposal to list a chemical
9 substance or mixture in Annex I, II, or III to
10 the LRTAP POPs Protocol.

11 “(2) REQUIREMENT.—Not later than 45 days
12 after the date of the POPs Review Committee or
13 Conference decision on a proposal or the submission
14 of a risk profile in support of a proposal under the
15 LRTAP POPs Protocol described in subparagraph
16 (A) or (B) of paragraph (1), respectively, the Ad-
17 ministrators shall—

18 “(A) publish in the Federal Register a no-
19 tice of the proposal; and

20 “(B) provide opportunity for comment on
21 the proposal.

22 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
23 tice under paragraph (2) shall—

24 “(A) identify the chemical substance or
25 mixture that is the subject of the proposal;



1 “(B) include a summary of the process
2 under the POPs Convention or the LRTAP
3 POPs Protocol for submission of a proposal and
4 listing of a chemical substance or mixture that
5 is the subject of a proposal (including criteria
6 applied in that process);

7 “(C) include a summary of the POPs Re-
8 view Committee or Conference decision and the
9 basis for the decision;

10 “(D) request information relevant to and
11 comment on—

12 “(i) in the case of a chemical sub-
13 stance or mixture proposed for listing in
14 an Annex to the POPs Convention, the in-
15 formation requirements and screening cri-
16 teria elements covered under Annex D to
17 the POPs Convention; and

18 “(ii) in the case of a chemical sub-
19 stance or mixture proposed for listing in
20 an Annex to the LRTAP POPs Protocol,
21 the information referenced in paragraph
22 6(a) of Article 14 of the LRTAP POPs
23 Protocol;

24 “(E) request the information required
25 under paragraph (4);

1 “(F) include any other information that
2 the Administrator considers to be relevant to
3 the proposal; and

4 “(G) request information and comment
5 on—

6 “(i) information relevant to the risk
7 profile of the POPs Review Committee cov-
8 ered under Annex E to the POPs Conven-
9 tion; and

10 “(ii) information relevant to any tech-
11 nical review conducted under paragraph 2
12 of Executive Body decision 1998/2.

13 “(4) PROVISION OF INFORMATION.—

14 “(A) PROVISION OF INFORMATION UNDER
15 POPS CONVENTION.—Not later than 60 days
16 after the date of publication of the notice under
17 paragraph (2) regarding a proposal to list a
18 chemical substance or mixture on an Annex of
19 the POPs Convention, any person that manu-
20 factures, processes, distributes in commerce for
21 export, or disposes of a chemical substance or
22 mixture that is the subject of the notice shall
23 provide (and any other interested person may
24 provide) to the Administrator information (to



1 the extent the information is known or readily
2 obtainable to the person) on—

3 “(i) the annual quantity of the chem-
4 ical substance or mixture that the person
5 manufactures and the locations of the
6 manufacture;

7 “(ii) the uses of the chemical sub-
8 stance or mixture;

9 “(iii) the approximate annual quantity
10 of the chemical substance or mixture that
11 the person releases into the environment;
12 and

13 “(iv) other information or monitoring
14 data relating to the chemical substance or
15 mixture that is consistent with the infor-
16 mation specified in paragraph 1 of Annex
17 D, and subsections (b) through (e) of
18 Annex E, to the POPs Convention.

19 “(B) PROVISION OF INFORMATION UNDER
20 LRTAP POPS PROTOCOL.—Not later than 60
21 days after the date of publication of the notice
22 under paragraph (2) regarding a proposal to
23 list a chemical substance or mixture on an
24 Annex of the LRTAP POPs Protocol, any per-
25 son that manufactures, processes, distributes in



1 commerce for export, or disposes of a chemical
2 substance or mixture that is the subject of the
3 notice shall provide (and any other interested
4 person may provide) to the Administrator infor-
5 mation (to the extent the information is known
6 or readily obtainable to the person) on—

7 “(i) the potential for long-range
8 transboundary atmospheric transport of
9 the chemical substance or mixture;

10 “(ii) the toxicity of the chemical sub-
11 stance or mixture;

12 “(iii) the persistence of the chemical
13 substance or mixture, including biotic deg-
14 radation processes and rates and degrada-
15 tion products;

16 “(iv) the bioaccumulation of the chem-
17 ical substance or mixture, including bio-
18 availability;

19 “(v) the annual quantity of the chem-
20 ical substance or mixture that the person
21 manufactures and the locations of the
22 manufacture;

23 “(vi) the uses of the chemical sub-
24 stance or mixture;



1 “(vii) the approximate annual quan-
2 tity of the chemical substance or mixture
3 that the person releases into the environ-
4 ment;

5 “(viii) environmental monitoring data
6 relating to the chemical substance or mix-
7 ture (in areas distant from sources);

8 “(ix)(I) information on alternatives to
9 the uses of the chemical substance or mix-
10 ture and the efficacy of each alternative;
11 and

12 “(II) information on any known ad-
13 verse environmental or human health ef-
14 fects associated with each alternative;

15 “(x) information on—

16 “(I) process changes, control
17 technologies, operating practices, and
18 other pollution prevention techniques
19 that can be used to reduce the emis-
20 sions of the chemical substance or
21 mixture; and

22 “(II) the applicability and effec-
23 tiveness of each technique described in
24 subclause (I); and



1 “(xi) information on the nonmonetary
2 costs and benefits and the quantifiable
3 costs and benefits associated with the use
4 of each alternative described in clause (ix)
5 or technique described in clause (x)(I).

6 “(C) UPDATING OF INFORMATION.—

7 “(i) VOLUNTARY UPDATES.—Any per-
8 son that submits information under sub-
9 paragraph (A) or (B) may voluntarily up-
10 date the information at any time.

11 “(ii) REQUIRED UPDATES.—If the Ad-
12 ministrator determines, in consultation
13 with the Secretary of State, that an update
14 of information submitted under subpara-
15 graph (A) or (B) is necessary, the Admin-
16 istrator may, through a notice published in
17 the Federal Register, require 1 or more
18 persons that are required to submit the in-
19 formation to update the information.

20 “(iii) NEW INFORMATION.—The Ad-
21 ministrator may require, by general order
22 published in the Federal Register or other-
23 wise, any person that (after the date under
24 subparagraphs (A) and (B) by which per-
25 sons are required to submit information)



1 commences manufacturing, processing, dis-
2 tributing in commerce for export, or dis-
3 posing of a chemical substance or mixture
4 subject to the requirements in subpara-
5 graph (A) or (B), to submit the informa-
6 tion required to be submitted under sub-
7 paragraph (A) or (B).

8 “(f) NOTICE AFTER DECISION THAT GLOBAL AC-
9 TION WARRANTED UNDER POPs CONVENTION OR THAT
10 FURTHER CONSIDERATION OF CHEMICAL SUBSTANCE OR
11 MIXTURE WARRANTED UNDER LRTAP POPs PRO-
12 TOCOL.—

13 “(1) APPLICABILITY.—This subsection applies
14 if—

15 “(A) the POPs Review Committee decides,
16 under paragraph 7(a) of Article 8 of the POPs
17 Convention, that global action is warranted with
18 respect to the chemical substance or mixture
19 that is the subject of the proposal, or the Con-
20 ference decides, under paragraph 8 of that Arti-
21 cle, that the proposal shall proceed; or

22 “(B) the Executive Body determines pur-
23 suant to paragraph 2 of Executive Body Deci-
24 sion 1998/2 that further consideration of the
25 chemical substance or mixture is warranted,



1 and therefore requires 1 or more technical re-
2 views of the proposal.

3 “(2) NOTICE.—Not later than 45 days after the
4 date on which a decision or determination is made
5 under paragraph (1), the Administrator shall—

6 “(A) publish in the Federal Register a no-
7 tice of the decision or determination; and

8 “(B) provide opportunity for comment on
9 the decision or determination.

10 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
11 tice under paragraph (1) shall—

12 “(A) identify the chemical substance or
13 mixture that is the subject of the proposal;

14 “(B) include a summary of—

15 “(i) the POPs Review Committee or
16 Conference decision and the basis for the
17 decision; or

18 “(ii) the Executive Body determina-
19 tion and basis for the determination;

20 “(C) request information and comment
21 on—

22 “(i) in the case of a chemical sub-
23 stance or mixture proposed for addition to
24 an Annex of the POPs Convention—



1 “(I) information on socio-
2 economic considerations covered under
3 Annex F to the POPs Convention;
4 and

5 “(II) information on socio-
6 economic considerations covered under
7 Annex F to the POPs Convention ap-
8 plicable to the range of possible prohi-
9 bitions described in subparagraph (E),
10 including the impact of the chemical
11 substance or mixture on minority and
12 low-income populations; and

13 “(ii) in the case of a chemical sub-
14 stance or mixture proposed for listing on
15 an Annex to the LRTAP POPs Protocol,
16 information on—

17 “(I) any additional measures not
18 described in the notice published
19 under subparagraph (E) that may
20 exist to reduce the risks of adverse ef-
21 fects on human health or the environ-
22 ment that result from the long-range
23 transboundary atmospheric transport
24 of the chemical substance or mixture;
25 and



1 “(II) the feasibility of any of the
2 additional measures or the measures
3 outlined in the notice published pursu-
4 ant to subparagraph (E);

5 “(D) request information on any current
6 or anticipated production or use of the chemical
7 substance or mixture that is the subject of the
8 proposal for which the United States may wish
9 to—

10 “(i) seek an exemption or acceptable
11 purpose under the POPs Convention; or

12 “(ii) allow a restricted use or condi-
13 tion under the LRTAP POPs Protocol;

14 “(E) describe a broad range of possible
15 prohibitions or restrictions that the United
16 States could impose on the manufacture, proc-
17 essing, distribution in commerce for export, use,
18 or disposal of the chemical substance or mix-
19 ture to address any risks that the chemical sub-
20 stance or mixture may pose; and

21 “(F) specify what changes, if any, to the
22 regulatory requirements and risk management
23 measures applicable to the chemical substance
24 or mixture in the United States have been made



1 since the date of publication of the notice under
2 subsection (e).

3 “(4) PROVISION OF INFORMATION.—Not later
4 than 60 days after the date of publication of the no-
5 tice under paragraph (2), any person that manufac-
6 tures, processes, distributes in commerce for export,
7 or disposes of a chemical substance or mixture that
8 is the subject of the notice shall provide (and any
9 other interested party may provide) to the
10 Administrator—

11 “(A) consistent with the information needs
12 described in Annex F to the POPs Convention,
13 any information that the person believes is rel-
14 evant to—

15 “(i) a risk management evaluation
16 carried out under paragraph 7 of Article 8
17 of the POPs Convention; or

18 “(ii) a decision by the Conference
19 under paragraph 9 of Article 8 of the
20 POPs Convention;

21 “(B) consistent with the information needs
22 for the technical review described in paragraph
23 2 of Executive Body Decision 1998/2, any in-
24 formation the person believes is relevant to the
25 technical review or to an Executive Body deci-



1 sion made under paragraph 3 of Article 14 of
2 the LRTAP POPs Protocol; and

3 “(C) information on any article in use that
4 consists of, contains, or is contaminated with
5 the chemical substance or mixture.

6 “(g) NOTICE AFTER RECOMMENDATION THAT CON-
7 FERENCE CONSIDER LISTING OR AFTER COMPLETION OF
8 TECHNICAL REVIEW.—

9 “(1) APPLICABILITY.—This subsection
10 applies—

11 “(A) if the POPs Review Committee rec-
12 ommends, under paragraph 9 of Article 8 of the
13 POPs Convention, that the Conference consider
14 making a Conference listing decision with re-
15 spect to the chemical substance or mixture in
16 accordance with the proposal; or

17 “(B) after completion of a technical review
18 of a proposal to list a chemical substance or
19 mixture on an Annex of the LRTAP POPs Pro-
20 tocol.

21 “(2) NOTICE.—Not later than 45 days after the
22 date on which a recommendation under paragraph
23 (1) is made or a technical review described in para-
24 graph (1) is completed, the Administrator shall—



1 “(A) publish in the Federal Register a no-
2 tice of the recommendation or completion of the
3 technical review; and

4 “(B) provide opportunity for comment on
5 the recommendation or the technical review.

6 “(3) REQUIRED ELEMENTS.—A notice under
7 paragraph (2) shall—

8 “(A) include a summary of the POPs Re-
9 view Committee recommendation and the basis
10 for the recommendation or a summary of the
11 technical review; and

12 “(B) summarize any control measures for
13 the chemical substance or mixture that are
14 identified by the POPs Review Committee or in
15 the technical review.

16 “(h) CHEMICAL SUBSTANCE OR MIXTURE SUBSE-
17 QUENTLY LISTED UNDER POPs CONVENTION OR
18 LRTAP POPs PROTOCOL.—

19 “(1) REGULATIONS.—If the Conference decides
20 to list a chemical substance or mixture in Annex A
21 or B to the POPs Convention, or if the parties to
22 the LRTAP POPs Protocol decide to list a chemical
23 substance or mixture in Annex I or II to the
24 LRTAP POPs Protocol, the Administrator shall—



1 “(A) not more than 1 year after the date
2 of such decision, publish in the Federal
3 Register—

4 “(i) a proposed rule, to prohibit or re-
5 strict the domestic manufacture, proc-
6 essing, distribution in commerce for ex-
7 port, use, or disposal of the additional
8 chemical substance or mixture, that pro-
9 tects against significant adverse human
10 health and environmental effects from such
11 domestic manufacture, processing, dis-
12 tribution in commerce for export, use, or
13 disposal associated with the chemical sub-
14 stance or mixture (including, as the Ad-
15 ministrator considers appropriate, effects
16 from long-range environmental transport),
17 which at a minimum implements the con-
18 trol measures specified for the chemical
19 substance or mixture in Annex A and B of
20 the POPs Convention and Annex I and II
21 to the LRTAP POPs Protocol;

22 “(ii) a statement that—

23 “(I) a proposed rule has been
24 issued under other Federal law to pro-
25 hibit or restrict the domestic manu-



1 facture, processing, distribution in
2 commerce for export, use, or disposal
3 of the additional chemical substance
4 or mixture, which at a minimum im-
5 plements the control measures speci-
6 fied for the chemical substance or
7 mixture in Annex A and B of the
8 POPs Convention and Annex I and II
9 to the LRTAP POPs Protocol; and

10 “(II) a final rule pursuant to
11 that proposed rule will be issued not
12 more than 2 years after the date of
13 the publication of the proposed rule;

14 “(iii) a proposed decision that addi-
15 tional regulation is not necessary because
16 the additional chemical substance or mix-
17 ture is already regulated in the United
18 States in a manner that at a minimum im-
19 plements the control measures specified for
20 the chemical substance or mixture in
21 Annex A and B of the POPs Convention
22 and Annex I and II to the LRTAP POPs
23 Protocol; or

24 “(iv) a proposed decision not to pro-
25 hibit or restrict the domestic manufacture,

1 processing, distribution in commerce for
2 export, use, or disposal of the additional
3 chemical substance or mixture because the
4 chemical substance or mixture is not likely
5 to lead to significant adverse human health
6 or environmental effects from such domes-
7 tic manufacture, processing, distribution in
8 commerce for export, use, or disposal (in-
9 cluding, as the Administrator considers ap-
10 propriate, effects from long-range environ-
11 mental transport); and

12 “(B) not more than 2 years after the date
13 of a proposed rule or decision under subpara-
14 graph (A), publish in the Federal Register—

15 “(i) a final rule, to prohibit or restrict
16 the domestic manufacture, processing, dis-
17 tribution in commerce for export, use, or
18 disposal of the additional chemical sub-
19 stance or mixture, that protects against
20 significant adverse human health and envi-
21 ronmental effects from such domestic man-
22 ufacture, processing, distribution in com-
23 merce for export, use, or disposal associ-
24 ated with the chemical substance or mix-
25 ture (including, as the Administrator con-



1 siders appropriate, effects from long-range
2 environmental transport), which at a min-
3 imum implements the control measures
4 specified for the chemical substance or
5 mixture in Annex A and B of the POPs
6 Convention and Annex I and II to the
7 LRTAP POPs Protocol;

8 “(ii) a final rule, issued under other
9 Federal law, to prohibit or restrict the do-
10 mestic manufacture, processing, distribu-
11 tion in commerce for export, use, or dis-
12 posal of the additional chemical substance
13 or mixture, which at a minimum imple-
14 ments the control measures specified for
15 the chemical substance or mixture in
16 Annex A and B of the POPs Convention
17 and Annex I and II to the LRTAP POPs
18 Protocol;

19 “(iii) a final decision not to prohibit
20 or restrict the domestic manufacture, proc-
21 essing, distribution in commerce for ex-
22 port, use, or disposal of the additional
23 chemical substance or mixture because the
24 additional chemical substance or mixture is
25 already regulated in the United States in

1 a manner that at a minimum implements
2 the control measures specified for the
3 chemical substance or mixture in Annex A
4 and B of the POPs Convention and Annex
5 I and II to the LRTAP POPs Protocol; or

6 “(iv) a final decision not to prohibit or
7 restrict the domestic manufacture, proc-
8 essing, distribution in commerce for ex-
9 port, use, or disposal of the additional
10 chemical substance or mixture because the
11 chemical substance or mixture is not likely
12 to lead to significant adverse human health
13 or environmental effects from such domes-
14 tic manufacture, processing, distribution in
15 commerce for export, use, or disposal (in-
16 cluding, as the Administrator considers ap-
17 propriate, effects from long-range environ-
18 mental transport).

19 A decision made under subparagraph (B)(ii) shall
20 not prohibit the Administrator from issuing at a
21 later date a final rule described in subparagraph
22 (B)(i) with respect to the chemical substance or mix-
23 ture. A final rule described in subparagraph (B)(i)
24 or (ii) shall not take effect unless the United States
25 has consented to be bound by the listing of the



1 chemical substance or mixture with respect to which
2 the final rule applies.

3 “(2) JUDICIAL REVIEW.—

4 “(A) IN GENERAL.—Not later than 60
5 days after the date of publication of a final rule
6 or decision under paragraph (1)(B), any person
7 may file a petition for judicial review of the rule
8 or decision with—

9 “(i) the United States Court of Ap-
10 peals for the District of Columbia; or

11 “(ii) the United States court of ap-
12 peals for the circuit in which the person re-
13 sides or maintains a principal place of
14 business.

15 “(B) JURISDICTION.—The United States
16 courts of appeals shall have exclusive jurisdic-
17 tion of any action to obtain judicial review
18 (other than in an enforcement proceeding) of a
19 rule or decision under this subsection if any
20 United States district court would have had ju-
21 risdiction of the action but for this paragraph.

22 “(C) COPIES.—The clerk of the court with
23 which a petition is filed under this paragraph
24 shall submit to the Administrator and the At-
25 torney General copies of the petition.

1 “(D) RULEMAKING PROCEEDINGS.—With
2 respect to an action to obtain judicial review
3 under this paragraph, section 2112 of title 28,
4 United States Code, shall apply to—

5 “(i) the filing of the record of pro-
6 ceedings for a rulemaking on which the
7 Administrator based the regulation; and

8 “(ii) any transfer of proceedings be-
9 tween United States courts of appeals.

10 “(E) STANDARD OF REVIEW.—Section 706
11 of title 5, United States Code, shall apply to the
12 review of a rule or decision under this para-
13 graph.

14 “(F) FEES AND COSTS.—The decision of
15 the court in an action commenced under this
16 paragraph, or of the Supreme Court of the
17 United States on review of such a decision, may
18 include an award of costs relating to the action
19 (including reasonable fees for attorneys and ex-
20 pert witnesses) if the court determines that
21 such an award is appropriate.

22 “(G) OTHER REMEDIES.—The remedies
23 provided under this paragraph shall be in addi-
24 tion to and not in lieu of remedies provided
25 under any other provision of law.



1 “(3) SOLE PROCEDURE.—

2 “(A) IN GENERAL.—No other rulemaking
3 procedure under this Act shall apply to rules
4 promulgated under this section.

5 “(B) RULEMAKING.—Regulations promul-
6 gated by the Administrator under this section
7 shall comply with section 553 of title 5, United
8 States Code (without regard to any reference in
9 that section to sections 556 and 557 of that
10 title).

11 “(i) HARMONIZATION OF POPs CONVENTION AND
12 LRTAP POPs PROTOCOL.—

13 “(1) IN GENERAL.—If a chemical substance or
14 mixture is both a POPs chemical substance or mix-
15 ture and a LRTAP POPs chemical substance or
16 mixture, in the case of a conflict between a provision
17 of this section applicable to a POPs chemical sub-
18 stance or mixture and a provision of this section ap-
19 plicable to a LRTAP POPs chemical substance or
20 mixture, the more stringent provision shall apply, as
21 determined by the Administrator in consultation
22 with the Secretary of State.

23 “(2) APPLICATION.—In the case of chemical
24 substance or mixture described in paragraph (1),
25 this section shall be applied in such a manner as to



1 ensure that the United States is in compliance with
2 the POPs Convention and the LRTAP POPs Pro-
3 tocol with respect to the chemical substance or mix-
4 ture.

5 “(j) AUTHORITY TO ISSUE REGULATIONS.—The Ad-
6 ministrator may issue regulations as necessary to imple-
7 ment this section.

8 **“SEC. 503. NOTICE AND RECORD OF PROHIBITIONS, EXEMP-**
9 **TIONS, DISALLOWANCES, AND OTHER INFOR-**
10 **MATION.**

11 “(a) IN GENERAL.—The Administrator—

12 “(1) shall publish in the Federal Register time-
13 ly notice concerning—

14 “(A) the POPs chemical substances and
15 mixtures, or the LRTAP POPs chemical sub-
16 stances and mixtures, subject to the prohibi-
17 tions specified in section 502;

18 “(B) any exemptions from the prohibitions
19 authorized under section 502, including the
20 date on which the exemptions are no longer au-
21 thorized;

22 “(C) in the case of a LRTAP POPs chem-
23 ical substance or mixture, any disallowances of
24 exemptions under section 502(d)(5); and



1 “(D) in the case of a POPs chemical sub-
2 stance or mixture, a list of any importing for-
3 eign states from which the Administrator has
4 received a nonparty certification under section
5 502(c)(6)(D); and

6 “(2) may include in the notice any other infor-
7 mation that the Administrator determines to be nec-
8 essary to ensure adequate notice of the requirements
9 of—

10 “(A) this title;

11 “(B) the POPs Convention; or

12 “(C) the LRTAP POPs Protocol.

13 “(b) UPDATING AND AVAILABILITY OF RECORD.—
14 The Administrator shall—

15 “(1) update the record as necessary; and

16 “(2) make the record publicly available.

17 “(c) DISCLOSURE OF DATA.—Any information pro-
18 vided to or otherwise obtained by the Administrator (or
19 any representative of the Administrator) under this title
20 shall be subject to section 14 of this Act.

21 **“SEC. 504. INTERNATIONAL CONVENTIONS AND COOPERA-**
22 **TION IN INTERNATIONAL EFFORTS.**

23 “In cooperation with the Secretary of State and the
24 head of any other appropriate Federal agency, the Admin-
25 istrator shall—



1 “(1) participate and cooperate in any inter-
2 national efforts to develop improved research and
3 regulations on chemical substances and mixtures;
4 and

5 “(2) participate in technical cooperation and ca-
6 pacity building activities designed to support imple-
7 mentation of—

8 “(A) the LRTAP POPs Protocol;

9 “(B) the PIC Convention; and

10 “(C) the POPs Convention.

11 **“SEC. 505. EXPORTS.**

12 “(a) REQUIREMENTS FOR EXPORTS.—In the case of
13 a chemical substance or mixture identified by the Adminis-
14 trator as listed on Annex III of the PIC Convention in
15 a notice issued under subsection (d)(3), any person that
16 distributes in commerce the chemical substance or mixture
17 for export shall comply with any export conditions or re-
18 strictions identified by the Administrator in the notice.

19 “(b) PRE-EXPORT NOTICES.—

20 “(1) IN GENERAL.—

21 “(A) REQUIREMENT.—In the case of—

22 “(i) a chemical substance or mixture
23 that the Administrator determines under
24 subsection (d)(1) to be banned or severely
25 restricted;



1 “(ii) a chemical substance or mixture
2 identified by the Administrator in a notice
3 issued under subsection (d)(3); or

4 “(iii) a POPs chemical substance or
5 mixture allowed to be exported under para-
6 graph (6) or (7) of section 502(c);
7 the exporter of the chemical substance or mix-
8 ture shall provide to the Administrator notice of
9 the intent of the exporter to export the chemical
10 substance or mixture.

11 “(B) TIMING OF NOTICE FOR BANNED OR
12 SEVERELY RESTRICTED CHEMICAL SUBSTANCES
13 OR MIXTURES.—

14 “(i) FIRST EXPORT.—In the case of a
15 first export that an exporter makes from
16 the territory of the United States to each
17 importing foreign state after the Adminis-
18 trator issues a notice under subsection
19 (d)(1), the exporter shall provide the notice
20 so that the Administrator receives the no-
21 tice not earlier than 30 nor later than 15
22 calendar days before the date of export.

23 “(ii) SUBSEQUENT EXPORTS.—In the
24 case of subsequent exports to the import-
25 ing foreign state in the calendar year sub-



1 sequent to the notification provided under
2 clause (i), the exporter shall provide the
3 notice so that the Administrator receives
4 the notice not earlier than 30 nor later
5 than 15 calendar days before the date of
6 the first export in each calendar year.

7 “(C) TIMING OF PRE-EXPORT NOTICE FOR
8 CHEMICAL SUBSTANCES OR MIXTURES LISTED
9 ON ANNEX III OF THE PIC CONVENTION.—

10 “(i) FIRST EXPORT.—In the case of a
11 first export that an exporter makes from
12 the territory of the United States to each
13 importing foreign state after the Adminis-
14 trator notifies the public under subsection
15 (d)(3), the exporter shall provide the notice
16 so that the Administrator receives the no-
17 tice not earlier than 30 nor later than 15
18 calendar days before the date of export.

19 “(ii) SUBSEQUENT EXPORTS.—In the
20 case of subsequent exports by the exporter
21 to the importing foreign state in a calendar
22 year subsequent to the notification pro-
23 vided under clause (i), the exporter shall
24 provide the notice so that the Adminis-
25 trator receives the notice not earlier than



1 30 nor later than 15 calendar days before
2 the date of the first such subsequent ex-
3 port in each calendar year.

4 “(iii) CHANGED CIRCUMSTANCES MER-
5 ITING NEW NOTICE.—If conditions or re-
6 strictions imposed by the importing foreign
7 state change and the Administrator noti-
8 fies the public of the change under sub-
9 section (d)(3), or if an earlier pre-export
10 notice no longer applies, the exporter shall
11 provide the notice so that the Adminis-
12 trator receives the notice not earlier than
13 30 nor later than 15 calendar days before
14 the date of export.

15 “(D) TIMING OF PRE-EXPORT NOTICE FOR
16 CHEMICAL SUBSTANCES OR MIXTURES AL-
17 LOWED TO BE EXPORTED UNDER PARAGRAPH
18 (6) OR (7) OF SECTION 502(c).—

19 “(i) FIRST EXPORT OF THE CAL-
20 ENDAR YEAR.—In the case of the first ex-
21 port that an exporter makes from the ter-
22 ritory of the United States to each import-
23 ing foreign state of a chemical substance
24 or mixture exported under paragraph (6)
25 or (7) of section 502(c), the exporter shall



1 provide the notice so that the Adminis-
2 trator receives the notice not earlier than
3 30 nor later than 15 calendar days before
4 the date of the first export.

5 “(ii) SUBSEQUENT EXPORTS.—In the
6 case of subsequent exports by the exporter
7 to the importing foreign state in a calendar
8 year subsequent to the notification pro-
9 vided under clause (i) to the importing for-
10 eign state, the exporter shall provide the
11 notice so that the Administrator receives
12 the notice not earlier than 30 nor later
13 than 15 calendar days before the date of
14 the first such subsequent export in each
15 calendar year.

16 “(iii) CHANGED CIRCUMSTANCES MER-
17 ITING NEW NOTICE.—If the information
18 provided in an earlier pre-export notice is
19 no longer accurate, the exporter shall pro-
20 vide the notice so that the Administrator
21 receives the notice not earlier than 30 nor
22 later than 15 calendar days before the date
23 of export.

24 “(2) ALTERNATE TIMEFRAME FOR NOTICES.—
25 Notwithstanding subparagraphs (B), (C), and (D) of



1 paragraph (1), the Administrator may set an alter-
2 nate timeframe for providing notices under para-
3 graph (1) if the Administrator determines that such
4 alternate timeframe is appropriate and the Adminis-
5 trator is able, within such alternate timeframe, to
6 administer notice activities in accordance with the
7 PIC Convention and comply with the POPs Conven-
8 tion.

9 “(3) CONTENT OF PRE-EXPORT NOTICES.—

10 “(A) NOTICES UNDER PARAGRAPH
11 (1)(b).—A notice under paragraph (1)(B) shall
12 include—

13 “(i) the name and address of the ex-
14 porter;

15 “(ii) the name and address of the ap-
16 propriate designated national authority of
17 the United States;

18 “(iii) the name and address of the ap-
19 propriate designated national authority of
20 the importing foreign state, if available;

21 “(iv) the name and address of the im-
22 porter;

23 “(v) the name of the chemical sub-
24 stance or mixture for which the notice is
25 required;



1 “(vi) the expected date of export;

2 “(vii) any information relating to the
3 foreseen uses of the chemical substance or
4 mixture, if known, in the importing foreign
5 state;

6 “(viii) any information on pre-
7 cautionary measures to reduce exposure to,
8 and emission of, the chemical substance or
9 mixture;

10 “(ix) any information relating to the
11 concentration of the chemical substance or
12 mixture; and

13 “(x) any other information specified
14 in Annex V to the PIC Convention.

15 “(B) NOTICES UNDER PARAGRAPH
16 (1)(c).—A notice under paragraph (1)(C) shall
17 include—

18 “(i) all of the information required to
19 be included under subparagraph (A);

20 “(ii) any information relating to ex-
21 port conditions or restrictions identified by
22 the Administrator in the notice issued
23 under subsection (d)(3) with respect to the
24 chemical substance or mixture;



1 “(iii) a general description of the
2 manner in which the export complies with
3 those conditions; and

4 “(iv) any other information that the
5 Administrator determines to be necessary
6 for effective enforcement of the export con-
7 ditions or restrictions applicable to the
8 chemical substance or mixture.

9 “(C) NOTICES UNDER PARAGRAPH
10 (1)(d).—A notice submitted to the Adminis-
11 trator under paragraph (1)(D) shall include—

12 “(i) the name and address of the ex-
13 porter;

14 “(ii) the name and address of the im-
15 porter;

16 “(iii) a specification of the identity of
17 the POPs chemical substance or mixture;

18 “(iv) a general description of how the
19 export complies with the conditions under
20 paragraph (6) or (7) of section 502(c); and

21 “(v) such other information as the
22 Administrator determines to be necessary
23 for enforcement of the export-related obli-
24 gations of the POPs Convention applicable
25 to the chemical substance or mixture.



1 “(4) PRE-EXPORT NOTICES ACCOMPANYING
2 EACH EXPORT.—An exporter shall ensure that a
3 copy of the most recent applicable pre-export notice
4 accompanies each shipment for export and is avail-
5 able for inspection upon export from the United
6 States of—

7 “(A) any chemical substance or mixture
8 that the Administrator has identified under
9 subsection (d)(3) as being listed on Annex III
10 of the PIC Convention; or

11 “(B) any POPs chemical substance or mix-
12 ture that is exported under paragraph (6) or
13 (7) of section 502(e).

14 “(5) RETENTION OF PRE-EXPORT NOTICES.—
15 An exporter required to provide a notice under sub-
16 paragraph (C) or (D) of paragraph (1) shall main-
17 tain a copy of the notice and other documents used
18 to generate the notice and have it readily available
19 for a period of not less than 3 years beginning on
20 the date on which the notice is provided.

21 “(c) LABELING REQUIREMENTS.—

22 “(1) IN GENERAL.—In the case of any chemical
23 substance or mixture that is the subject of a notice
24 issued under paragraph (1) or (3) of subsection (d)
25 and that is manufactured, processed, or distributed



1 in commerce for export, the chemical substance or
2 mixture shall, in accordance with the PIC
3 Convention—

4 “(A) bear labeling information relating to
5 risks or hazards to human health or the envi-
6 ronment; and

7 “(B) be accompanied by shipping docu-
8 ments that include any relevant safety data
9 sheets on the chemical substance or mixture.

10 “(2) CUSTOM CODES.—A chemical substance or
11 mixture that is the subject of a notice issued under
12 subsection (d)(3) and that is distributed or sold for
13 export shall be accompanied by shipping documents
14 that bear, at a minimum, any appropriate har-
15 monized system customs codes assigned by the
16 World Customs Organization.

17 “(d) NOTICE REQUIREMENTS AND EXEMPTION.—

18 “(1) DETERMINATION WHETHER CHEMICAL
19 SUBSTANCE OR MIXTURE IS BANNED OR SEVERELY
20 RESTRICTED.—

21 “(A) IN GENERAL.—The Administrator, in
22 consultation with the Secretary of State, shall
23 determine whether a chemical substance or mix-
24 ture is banned or severely restricted within the



1 United States (as those terms are defined by
2 the PIC Convention).

3 “(B) NOTICE OF DETERMINATIONS.—Not-
4 withstanding any other provision of law, the
5 Administrator shall issue to the Secretariat of
6 the PIC Convention and the public a notice of
7 each determination under subparagraph (A)
8 that includes—

9 “(i) in the case of a notice to the Sec-
10 retariat of the PIC Convention, the infor-
11 mation specified in Annex I to the PIC
12 Convention; and

13 “(ii) in the case of a notice to the
14 public, at a minimum, a summary of that
15 information.

16 “(2) NOTICE TO FOREIGN COUNTRIES.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law, on receipt of a notice of
19 intent to export under subsection (b)(1)(B), the
20 Administrator shall provide a copy of the notice
21 to the designated national authority of the im-
22 porting foreign state.

23 “(B) NONIDENTIFIED DESIGNATED NA-
24 TIONAL AUTHORITY.—In a case in which a des-
25 ignated national authority has not been identi-



1 fied, the Administrator shall provide the notice
2 of intent to export to any other appropriate of-
3 ficial of the importing foreign state, as identi-
4 fied by the Administrator.

5 “(3) NOTICE TO PUBLIC.—

6 “(A) IN GENERAL.—The Administrator, in
7 consultation with the Secretary of State, shall
8 issue a notice to inform the public of—

9 “(i) any chemical substance or mix-
10 ture that is listed on Annex III to the PIC
11 Convention; and

12 “(ii) any condition or restriction of an
13 importing foreign state that is applicable
14 to the import, in accordance with the PIC
15 Convention, of the chemical substance or
16 mixture.

17 “(B) TIMING.—A notice required under
18 subparagraph (A) shall be issued not later than
19 90 days after, and any conditions or restrictions
20 described in subparagraph (A)(ii) shall take ef-
21 fect not later than 180 days after, the date of
22 receipt of a notice from the Secretariat of the
23 PIC Convention who—

24 “(i) transmits import decisions of the
25 parties to the PIC Convention; or



1 “(ii) provides notice of the failure of
2 the parties to provide import decisions.

3 “(C) TREATMENT OF CONDITIONS AND RE-
4 STRICTIONS.—A condition or restriction identi-
5 fied by a notice required under subparagraph
6 (A) shall be considered to be an export condi-
7 tion or restriction for the purpose of subsection
8 (a).

9 “(4) NOTICE OF EXEMPTION.—The Adminis-
10 trator may issue a notice exempting any chemical
11 substance or mixture from the requirements of sub-
12 sections (a) through (c) and this subsection if the
13 Administrator determines, in consultation with the
14 Secretary of State, that the exemption would be con-
15 sistent with the PIC Convention.

16 “(5) INTEGRATION WITH OTHER NOTICES.—To
17 the maximum extent practicable, the Administrator
18 shall integrate the information contained in any no-
19 tice issued under this subsection into any notice
20 published under—

21 “(A) section 12(b); or

22 “(B) section 502.

23 “(e) REGULATIONS.—The Administrator may pro-
24 mulgate such regulations as the Administrator determines
25 to be necessary—

1 “(1) to facilitate implementation of this section;

2 “(2) to ensure compliance with the PIC Con-

3 vention; and

4 “(3) to allow the pre-export notice requirement

5 under this section and any pre-export notice require-

6 ment in other provisions of this Act or in any other

7 Federal law to be satisfied by a single notice.

8 “(f) HARMONIZATION OF POPs CONVENTION AND

9 PIC CONVENTION.—

10 “(1) IN GENERAL.—If the export of a chemical

11 substance or mixture is addressed or restricted

12 under both section 502 and this section, that section

13 and this section shall apply to the chemical sub-

14 stance or mixture.

15 “(2) CONFLICT.—In the case of a conflict be-

16 tween section 502 and this section with respect to a

17 chemical substance or mixture, the more stringent

18 provision shall govern.

19 “(3) APPLICATION.—With respect to a chemical

20 substance or mixture, section 502 and this section

21 shall be applied in such a manner as to ensure that

22 the United States is in compliance with the POPs

23 Convention and the PIC Convention with respect to

24 the chemical substance or mixture.



1 **"SEC. 506. RULES OF CONSTRUCTION.**

2 "Nothing in this title—

3 "(1) shall be construed to require the United
4 States to register for any specific exemption avail-
5 able to the United States under Annex A or B to the
6 POPs Convention or any acceptable purpose avail-
7 able to the United States under Annex B to the
8 POPs Convention; or

9 "(2) affects the authority of the Administrator
10 to regulate a chemical substance or mixture under
11 any other law or any other provision of this Act.

12 **"SEC. 507. APPLICABILITY.**

13 "A requirement of this title that relates to the
14 LRTAP POPs Protocol, the POPs Convention, or the PIC
15 Convention shall be effective only if the United States is
16 a party to such Protocol or Convention."

17 **SEC. 3. POLYCHLORINATED BIPHENYLS (PCBS).**

18 Section 6(e) of the Toxic Substance Control Act (15
19 U.S.C. 2605(e)) is amended—

20 (1) by adding at the end of paragraph (3) the
21 following new subparagraph:

22 "(D) The Administrator may not, after the date of
23 enactment of this subparagraph, grant an exemption
24 under subparagraph (B) unless the manufacturing, proc-
25 essing, or distribution in commerce with respect to which



1 such exemption applies is authorized under section 503(f)
2 or (g), subject to section 503(h).”; and

3 (2) by adding at the end the following new
4 paragraph:

5 “(6) Notwithstanding any other provision of this sub-
6 section, no person may distribute in commerce for export
7 equipment (including transformers, capacitors, and other
8 receptacles) containing greater than 0.05 liters of liquid
9 stock that contains greater than 0.005 percent poly-
10 chlorinated biphenyls, except for the purpose of environ-
11 mentally sound waste management to the extent that such
12 distribution in commerce for export is authorized by Fed-
13 eral law.”.

14 **SEC. 4. EXPORTS.**

15 Section 12(a)(1) of the Toxic Substances Control Act
16 (15 U.S.C. 2611(a)(1)) is amended by striking “(other
17 than section 8)” and inserting “(other than section 8 or
18 title V)”.

19 **SEC. 5. PROHIBITED ACTS.**

20 Section 15 of the Toxic Substances Control Act (15
21 U.S.C. 2614) is amended to read as follows:

22 **“SEC. 15. PROHIBITED ACTS.**

23 “It shall be unlawful for any person to—

24 “(1) fail or refuse to comply with—



1 “(A) any rule promulgated or order issued
2 under section 4;

3 “(B) any requirement prescribed by section
4 5 or 6;

5 “(C) any rule promulgated or order issued
6 under section 5 or 6;

7 “(D) any requirement of title II;

8 “(E) any rule promulgated or order issued
9 under title II;

10 “(F) any requirement of title V; or

11 “(G) any rule promulgated under title V;

12 “(2) use for commercial purposes a chemical
13 substance or mixture that the person knew or had
14 reason to know was manufactured, processed, or dis-
15 tributed in commerce in violation of—

16 “(A) section 5 or 6;

17 “(B) a rule promulgated or order issued
18 under section 5 or 6; or

19 “(C) an order issued in a civil action
20 brought under section 5 or 7;

21 “(3) use for commercial purposes a chemical
22 substance or mixture that the person knew or had
23 reason to know was manufactured, processed, dis-
24 tributed in commerce for export, used, or disposed of
25 in violation of—



1 “(A) title V; or

2 “(B) a rule promulgated under title V;

3 “(4) fail or refuse to establish or maintain
4 records, submit reports, notices, or other informa-
5 tion, or permit access to or copying of records as re-
6 quired by this Act (including regulations promul-
7 gated under this Act); or

8 “(5) fail or refuse to permit entry or inspection
9 as required under section 11.”.

10 **SEC. 6. CONFORMING AMENDMENTS.**

11 (a) Section 11 of the Toxic Substances Control Act
12 (15 U.S.C. 2610) is amended in subsections (a) and (b)
13 by striking “title IV” each place it appears and inserting
14 “title IV or V”.

15 (b) Section 13(a)(1) of the Toxic Substances Control
16 Act (15 U.S.C. 2612(a)(1)) is amended by striking sub-
17 paragraph (B) and inserting the following:

18 “(B) it is offered for entry in violation of—

19 “(i) section 5 or 6;

20 “(ii) title IV or V;

21 “(iii) a rule or order issued under section
22 5 or 6 or title IV or V; or

23 “(iv) an order issued in a civil action
24 brought under section 5 or 6 or title IV.”.



1 (c) Section 16 of the Toxic Substances Control Act
2 (15 U.S.C. 2615) is amended by striking “section 15 or
3 409” each place it appears and inserting “section 15, sec-
4 tion 409, or title V”.

5 (d) Section 17 of the Toxic Substances Control Act
6 (15 U.S.C. 2616) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking
10 “section 15 or 409,” and inserting “section
11 15, section 409, or title V;”;

12 (ii) by striking subparagraph (B) and
13 inserting the following:

14 “(B) restrain any person from taking any ac-
15 tion prohibited by section 5 or 6, or title IV or V
16 (or a rule or order issued under any of those sec-
17 tions or titles);”;

18 (iii) in subparagraph (C), by striking
19 “, or” and inserting “; or”; and

20 (iv) in subparagraph (D)—

21 (I) by striking “title IV manufac-
22 tured” and inserting “title IV or V
23 manufactured”; and

24 (II) by striking “section 5, 6, or
25 title IV” each place it appears and in-



1 serting “section 5 or 6, or title IV or
2 V”; and

3 (B) in paragraph (2)(A), by inserting “or
4 title V” after “section 15”; and

5 (2) in the first sentence of subsection (b), by in-
6 serting “or V” after “title IV”.

7 (e) Section 18(a)(2) of the Toxic Substances Control
8 Act (15 U.S.C. 2617(a)(2)) is amended—

9 (1) in subparagraph (A), by striking “and” at
10 the end;

11 (2) in subparagraph (B), by striking the period
12 at the end and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(C) no State or political subdivision may es-
15 tablish or continue in effect any requirement that is
16 applicable to a POPs chemical substance or mixture
17 or LRTAP POPs chemical substance or mixture (as
18 defined in title V) for which a listing under Annex
19 A or B of the POPs Convention or Annex I or II
20 of the LRTAP POPs Protocol has entered into force
21 for the United States, if such requirement is less
22 stringent than control measures and other require-
23 ments adopted by the United States under section
24 502(h) with respect to the chemical substance or
25 mixture.”.

1 (f) Section 20(a)(1) of the Toxic Substances Control
2 Act (15 U.S.C. 2619(a)(1)) is amended by striking "title
3 II or IV" each place it appears and inserting "title II,
4 IV, or V".

